

Council/Agency Meeting Held: _____	City Clerk's Signature _____
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 5/2/2005	Department ID Number: 05-010

CITY OF HUNTINGTON BEACH REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: HONORABLE MAYOR CITY COUNCIL MEMBERS

SUBMITTED BY: JENNIFER MCGRATH, CITY ATTORNEY

PREPARED BY: JENNIFER MCGRATH, CITY ATTORNEY

SUBJECT: AUTHORIZATION OF THE FILING OF LITIGATION

2005 APR 19 A 10:55
 HUNTINGTON BEACH, CA
 RES NO. 2005-32

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue: Authorize the City Attorney to file litigation, and report such filings at a regular City Council meeting, without further City Council action in defined circumstances, including, (1) the requisite defense of litigation; (2) recovery of monies owed to City; (3) enforcement of City's Municipal Code, Zoning Code, or affordable housing covenants; (4) the protection of City employees from harassment; and (5) pursuit of insurance coverage.

Funding Source: N/A.

Recommended Action: Adopt Resolution No. 2005-32 Authorizing the City Attorney to Initiate Certain Legal Actions on Behalf of the City.

Alternative Action(s): Do not approve Resolution No. 2005-32.

Analysis: Although City Charter Section 309 requires the City Attorney to defend litigation filed against the City, it does not authorize the City Attorney to file any type of litigation in defense of the City or in advancement of the protection of the City's General Fund. And while the majority of the work of the Litigation Division of the City Attorney's Office is the defense of litigation filed against the City, there have been many times that adequate defense of the City's interests required the initiation of litigation which mandates the permission of the City Council as client. Moreover, the City Attorney's Office is unable to independently file litigation to advance the City's interests. Oftentimes, the filing of pro-active litigation requires swift action. In addition, the failure to file risks legal malpractice on behalf of the City Attorney.

The proposed resolution is limited to the filing of litigation in the following limited circumstances:

1. Temporary Restraining Orders wherein "time is of the essence" and a delay could mean the continuation of harassment of a City employee or the

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REQUEST FOR ACTION

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continuing violation of the City's Municipal Code, Zoning Code, or affordability housing covenants.

2. Cross-complaints or counter-claims against other necessary parties in civil actions where the City is a defendant or cross-defendant; and
3. Claims related to subrogation, debt collection or bankruptcy proceedings, where the City is a creditor or owed a debt; and
4. Claims for indemnification, insurance coverage or policy interpretation (including actions for bad faith denial of coverage), or other similar actions.

Under the proposed Resolution, the City Attorney may still bring items to the City Council prior to filing litigation. In addition, the proposed Resolution requires the City Attorney to report out any filing of litigation at a regular meeting of the City Council.

Environmental Status:

Attachment(s):

City Clerk's Page Number	No.	Description
3	1.	Resolution No. <u>2005-32</u> : A Resolution of the City Council of the City of Huntington Beach Authorizing the City Attorney to Initiate Certain Legal Actions on Behalf of the City

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ATTACHMENT NO. 1

RESOLUTION NO. 2005-32

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH AUTHORIZING THE CITY ATTORNEY
TO INITIATE CERTAIN LEGAL ACTIONS ON BEHALF OF THE CITY

WHEREAS, the City of Huntington Beach is often required by law to act as a claimant or plaintiff in various legal cases or other administrative matters; and

The time constraints imposed by the legal system often requires swift action to be taken to protect the City's legal rights; and

The City Council desires to authorize the City Attorney to initiate litigation or administrative process in the certain instances enumerated herein, without further authorization from the City Council,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

SECTION 1. That the City Attorney is hereby authorized to initiate and prosecute on behalf of the City such civil litigation, administrative matters, or other proceedings under the following circumstances:

1. Complaints for injunctions and restraining orders arising out of administrative citations or notices of violation for zoning code enforcement; and
2. Complaints for injunctions and restraining orders arising out of the harassment of the City's officers, agents or employees; and
3. Complaints for injunctions and restraining orders arising out of the City's affordable housing program, such as the enforcement of affordability covenants in favor of the City; and
4. Cross-complaints or counter-claims against other necessary parties in civil actions where the City is a defendant or cross-defendant; and
5. Claims related to subrogation, debt collection or bankruptcy proceedings, where the City is a creditor or owed a debt; and
6. Claims for indemnification, insurance coverage or policy interpretation (including actions for bad faith denial of coverage), or other similar actions.

SECTION 2. The City Attorney shall report all actions filed pursuant to this Resolution at a regular City Council meeting.

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PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2005.

Mayor

REVIEWED AND APPROVED:

Lenehyne Cullen
City Administrator

APPROVED AS TO FORM:

Kenya M. Galt
City Attorney
4/18/05

INITIATED AND APPROVED:

Kenya M. Galt
City Attorney
4/18/05

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